

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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VISION BIOSYSTEMS (USA)
TRADING INC.,

Plaintiff,

v.

VENTANA MEDICAL SYSTEMS, INC.,

Defendant.

Civil Action No. 03-CV-10391-GAO

VENTANA MEDICAL SYSTEMS, INC.,

Plaintiff,

v.

VISION BIOSYSTEMS INC.,

Defendant.

Civil Action No. 05-CV-10614-GAO

**DECLARATION OF RICHARD WYDEVEN IN SUPPORT OF
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT
OF NON-INFRINGEMENT BASED ON COLLATERAL ESTOPPEL**

I, Richard Wydeven, declare and state as follows:

1. I am a member of the firm of Rothwell Figg Ernst & Manbeck, counsel to Vision BioSystems Inc. formerly known as Vision BioSystems (USA) Trading Inc. in the above captioned matter.

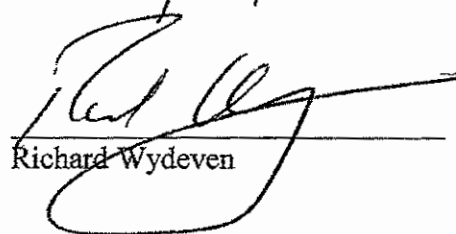
2. Attached hereto as Exhibit 1 is a true and correct copy of the claim construction opinion in Ventana Medical Systems, Inc. v. BioGenex Laboratories Inc., No. 03-92 (D. Ariz. Aug. 23, 2003).

3. Attached hereto as Exhibit 2 is a true and correct copy of U.S. Patent No. 6,352,861 (the "861 patent).

4. Attached hereto as Exhibit 3 is a true and correct copy of the Final Judgment of Noninfringement in Ventana Medical Systems, Inc. v. BioGenex Laboratories, Inc., No. 03-92 (D. Ariz. Oct. 6, 2005).

I declare under penalty of perjury that the foregoing is true and correct of my own knowledge, except as to those matters asserted on information and belief and, as to those matters, I am informed and believe them to be true.

Executed this 6 day of October, 2005 in Washington, DC.


Richard Wydeven

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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